



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2011-0809; FRL-9754-5]

Approval and Promulgation of Implementation Plans; Florida; Section 128 and 110(a)(2)(E)(ii) and (G) Infrastructure Requirements for the 1997 8-hour Ozone National Ambient Air Quality Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, correction.

SUMMARY: EPA published in the Federal Register of July 30, 2012, a final rule approving portions of the State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP) on May 24, 2012, as demonstrating that the State met the SIP requirements of the Clean Air Act (CAA or the Act) for the 1997 8-hour ozone national ambient air quality standards (NAAQS). In that final rule, EPA approved Florida's infrastructure submission, provided to EPA on May 24, 2012, which included state statutes to be incorporated into the SIP to address infrastructure requirements regarding state boards and emergency powers. While EPA discussed in the final rulemaking that it was taking action to approve certain state statutes into the Florida SIP to address the state board requirements and emergency powers, EPA inadvertently did not list these state statutes in the regulatory text of the July 30, 2012, final rule. Accordingly, this rulemaking corrects that inadvertent regulatory text omission.

DATES: Effective [insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9140. Ms. Ward can be reached via electronic mail at ward.nacosta@epa.gov.

SUPPLEMENTARY INFORMATION: This action corrects an inadvertent omission in the regulatory language in a July 30, 2012, final rulemaking where EPA approved certain state statutes into the Florida SIP to address section 110(a)(2)(E)(ii) regarding state boards and 110(a)(2)(G) regarding emergency powers for the 1997 8-hour ozone NAAQS. *See* 77 FR 29581. In the July 30, 2012, final rule, EPA inadvertently did not list these state statutes in the regulatory text. Accordingly, this rulemaking corrects that inadvertent regulatory text omission.

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action is unnecessary because today's action to correct an inadvertent regulatory text omission included with EPA's July 30, 2012, final rule is consistent with the substantive revisions to the Florida SIP described in the May 18, 2012, proposed rule for the July 30, 2012, final rule. *See* 77 FR 29581. As such, public notice and comment has been provided for these revisions and additional notice and comment procedures are unnecessary. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction, or in having the opportunity to comment on the correction prior to this

action being finalized, since this correction action does not change the meaning of EPA's analysis or action to approve certain state statutes as addressing the state board and emergency episode requirements for 1997 8-hour ozone NAAQS into the Florida SIP. EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's action merely corrects an inadvertent omission for the regulatory text of a prior rulemaking by listing these state statutes in the regulatory text for the Florida SIP. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely corrects an inadvertent omission for the regulatory text of EPA's July 30, 2012, final rule to approve certain state statutes as

addressing the state board and emergency episode requirements for 1997 8-hour ozone NAAQS into the Florida SIP, and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely corrects an inadvertent omission for the regulatory text of EPA's July 30, 2012, final rule to approve certain state statutes as addressing the state board and emergency episode requirements for 1997 8-hour ozone NAAQS into the Florida SIP, and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely corrects an inadvertent omission for the regulatory text of EPA's July 30, 2012, final rule to approve certain state statutes as addressing the state board and emergency episode requirements for 1997 8-hour ozone NAAQS into the Florida SIP, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health

Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or

action. This action may not be challenged later in proceedings to enforce its requirements. *See* CAA section 307(b)(2).

Dated: November 14, 2012.

A. Stanley Meiburg,

Acting Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52-[APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart K—Florida

2. Section 52.520(c), is amended by adding in numerical order a new entry for “State Statutes,” at the end of the table to read as follows:

§ 52.520 Identification of plan.

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(c) * * *

EPA-Approved Florida Regulations

| State citation (Section) | Title/subject | State effective date | EPA approval date | Explanation |
|-------------------------------------|---|---------------------------------|------------------------------|--|
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| State Statutes | | | | |
| 112.3143(4) | Voting Conflict | 4/19/2012 | 7/30/2012 77 FR 44485 | To satisfy the requirements of sections 128 and 110(a)(2)(E)(ii) |
| 112.3144 | Full and Public Disclosure of Financial Interests | 4/19/2012 | 7/30/2012 77 FR 44485 | To satisfy the requirements of sections 128 and 110(a)(2)(E)(ii) |
| 403.131 | Injunctive relief, remedies | 4/19/2012 | 7/30/2012 77 FR 44485 | To satisfy the requirements of section 110(a)(2)(G) |

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|---------|--|-----------|--------------------------|--|
| 120.569 | Decisions which affect substantial interests | 4/19/2012 | 7/30/2012 77 FR 44485 | To satisfy the requirements of section 110(a)(2)(G) |
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[FR Doc. 2012-28589 Filed 11/26/2012 at 8:45 am; Publication Date: 11/27/2012]